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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/034,351 | 12/20/2001 | Eric Nielsen | 070191-0335 (112018) | 8396 |

26371 7590 03/08/2004

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| EXAMINER |
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GETZOW, SCOTT M

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| ART UNIT | PAPER NUMBER |
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3762

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DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,351

Applicant(s)

NIELSEN ET AL.

Examiner

Scott M. Getzow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-19, 28-32 and 37-39 is/are allowed.
- 6) ☒ Claim(s) 1-13, 20-27, 33-36, 40-45 and 51-61 is/are rejected.
- 7) ☒ Claim(s) 46-50 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>10</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. Claims 1-7,20,40,41,54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al '917 in view of Raj et al '013.

Wang teaches all of the subject matter of the above claims including displaying non-invasively determined cardiac output and Ecg, see column 7 lines 60-66.

However, the patent does not explicitly state that a plurality of ECG waveforms is displayed. Raj teaches an Ecg monitor which displays, among other things, a plurality of Ecg signals. It would have been obvious to use such a display feature of Raj with the device of Wang in order to give the attending physician a more complete indication of a patient's health.

2. Claims 8,9,10,12,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al '917 and Raj et al '013 and further in view of Maschke '012.

The combination of Wang and Raj, as mentioned above, shows a device that displays a plurality of Ecg signals as well as cardiac output. The combination does not explicitly teach use and display of blood pressure, pulse oximetry and carbon dioxide. These parameters are sensed and displayed with the device of Maschke. It would have been obvious to use such parameters with the combination of Wang and Raj in order to give the attending physician a more complete picture of the health of the patient.

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3. Claims 21-24,26,27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al '917 in view of Welch et al '363.

Wang teaches all of the subject matter of the above claims except the explicit mention of a wireless communication link between the monitoring system and a LAN. Welch teaches the use of wireless communication which allows for communication of information and data to a centralized location, such as an LAN including a nurse's station. To use such wireless technology with the device of Wang would have been obvious in that it would provide portability to expand the freedom of movement of the patient.

4. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al '917 and Welch et al '363 and further in view of Maschke et al '012.

The combination of Wang and Welch teaches all of the subject matter of the above claims except the explicit mention of using blood pressure, pulse oximetry and carbon dioxide sensors. As mentioned above, Maschke teaches using such sensors in a patient monitoring system. It would have been obvious to use such sensors with the device of Wang and Welch in order to give the attending physician a more complete picture of the patient's condition.

5. Claims 11,33-36,42-45,54,55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al '917 and Raj et al '013 and further in view of Welch et al '363.

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The combination of Wang and Raj teaches all of the subject matter of the above claims including displaying a plurality of Ecg signals of a patient, except the use of a communication interface that allows for wireless communication between the monitoring system and a LAN. As mentioned above, Welch teaches the use of wireless technology in a patient monitoring environment. It would have been obvious to use such technology with the device of Wang and Raj in order to increase the range of movement of the patient in the hospital without tangling wires.

6. Claims 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solar 7000/8000 Patient Monitor Operator's Manual in view of Welch et al '363.

It would have been obvious to use wireless technology, as shown by Welch, with the Solar device, for reasons mentioned supra.

Claim Rejections - 35 USC § 102

7. Claims 11,21-27,51-61 are rejected under 35 U.S.C. 102(a) as being anticipated by Solar 7000/8000 Patient Monitor Operator's Manual.

Allowable Subject Matter

8. Claims 14-19,28-32,37-39 are allowed.

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9. Claims 46-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott M. Getzow whose telephone number is (703) 308-2997. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (703) 308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Scott M. Getzow
Primary Examiner
Art Unit 3762

smg